IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO.5142 OF 2003
IN
FIRST APPEAL NO. 883 OF 2004

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri S.S.Vidhyarthi for the Appellant.

Shri S.M.Oak with Shri Amber Joshi for Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 16th August, 2004.

P.C.:

1. Rule. Shri Joshi waives service for Respondent No.1. Service on Respondent No.2 is dispensed with.

2. Challenge in the First Appeal is to the quantum of compensation awarded by the Commissioner for Workmen's Compensation. The case of the Appellant is that the Commissioner has committed an error by proceeding on the footing that the loss of earning capacity of the Respondent No.1 was to the extent of 100% when the medical certificate issued by Dr.Nathu discloses that the percentage was 50%. The other contention which is raised is regarding the proof of employment and the salary which was being paid to the Applicant.

3. The learned Counsel appearing for the Appellant

stated that the entire amount due and payable as per the impugned Judgment and order has been deposited with the Commissioner for Workmen Compensation.

4. Considering the challenge in the Appeal and the facts and circumstances of the case, Civil Application is disposed of by the following order:

(i) The Respondent No.1-Applicant is permitted to withdraw a sum of Rs.1,50,000/- without security. The Respondent No.1 is also permitted to withdraw the balance amount deposited by the Appellants/Applicants upon furnishing security to the satisfaction of the Commissioner for Workmen Compensation and the Judge of the 4th Labour Court, Thane.

(ii) If the balance amount is not withdrawn by the Respondent No.1 within a period of six months from today, the learned Judge of the 4th Labour Court is directed to invest the said amount in fixed deposit in any nationalised bank. The fixed deposit shall be renewed from time to time till disposal of the Appeal.

(iii) The parties and the lower Court shall act on authenticated copy of this Court.

Judge.